

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 99-3219

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United States of America,

Appellee,

v.

Richard Allen Delano,

Appellant.

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Appeal from the United States  
District Court for the  
District of Minnesota

[UNPUBLISHED]

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Submitted: February 22, 2000

Filed: July 12, 2000

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Before McMILLIAN, HEANEY, and MORRIS SHEPPARD ARNOLD,  
Circuit Judges.

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PER CURIAM.

Richard Allen Delano appeals from the final judgment entered in the District Court<sup>1</sup> for the District of Minnesota upon his unconditional guilty plea to possessing methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). After granting the government's substantial-assistance downward-departure motion, the district court sentenced appellant to 164 months imprisonment and five years

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<sup>1</sup>The Honorable David S. Doty, United States District Judge for the District of Minnesota.

supervised release. Counsel has filed a brief and moved to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967). For reversal, counsel suggests that the district court erred in denying a pretrial motion to suppress Delano's statements and in imposing a 13-year rather than 10-year prison term. Counsel also notes that Delano now wishes to withdraw his plea because of the length of the sentence he received, and contends that the district court should have inquired at sentencing whether Delano wanted to persist in his guilty plea. Although we granted Delano permission to file a pro se supplemental brief, he has not done so. For the reasons discussed below, we affirm the judgment of the district court.

First, by unconditionally pleading guilty, Delano waived any challenge to the admissibility of his statements. See United States v. McNeely, 20 F.3d 886, 888 (8th Cir.) (per curiam) (valid guilty plea waives all nonjurisdictional defects and defenses), cert. denied, 513 U.S. 860 (1994). Second, Delano's challenge to the extent of the district court's downward departure is unreviewable. See United States v. Dutcher, 8 F.3d 11, 12 (8th Cir. 1993) (extent of downward departure is unreviewable, regardless of district court's reasons for refraining from departing further); United States v. Albers, 961 F.2d 710, 712 (8th Cir. 1992) (defendant may not appeal substantial-assistance downward departure simply because he is dissatisfied with extent of departure). Finally, Delano's remaining contentions amount to a claim that his guilty plea was involuntary, a claim which he did not present to the district court and therefore may not raise for the first time in this appeal. See United States v. Murphy, 899 F.2d 714, 716 (8th Cir. 1990).

After review of counsel's Anders brief and an independent review of the record in accordance with Penon v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.